Frequently Asked Questions (FAQs): Regional Mitigation Strategies and Landscape Assessment for Bureau of Land Management Solar Energy Zones in Colorado

1. What is Mitigation?

Under the National Environmental Policy Act (NEPA) mitigation is defined as measures taken to: 1) avoid an impact altogether; 2) minimize the degree or magnitude of the impact; 3) reduce the impact over time; 4) rectify the impact; or 5) compensate for the impact (40 CFR 1508.20). Federal agencies are required to account for and disclose the impacts of their actions on the human and natural environment, and are directed to avoid, minimize or *mitigate* adverse impacts of their actions. The BLM is not required to mitigate all impacts to resources for a project. Rather, the BLM must disclose those impacts in the NEPA process and determine the need for mitigation based on the degree of impact relative to natural resource management goals and objectives

2. What is the difference between onsite and offsite mitigation?

On-site mitigation measures are employed within the footprint of a project. Off-site mitigation measures are employed outside the footprint of the project. BLM policy is to place a priority on mitigating impacts to an acceptable level onsite. However, there are times when onsite mitigation alone may not be sufficient to adequately mitigate impacts and achieve BLM resource and value objectives. In these cases, it may be appropriate to consider mitigation outside the area of impact (e.g., compensating for the impact) to achieve BLM resource and value objectives.

Offsite mitigation is covered under current BLM policy and consists of compensating for resource impacts by replacing or providing substitute resources or habitat at a different location than the project area[1]. Off-site mitigation is supplemental to onsite mitigation and is used to enhance the BLM's ability to fulfill its mission of providing multiple uses on the public lands while ensuring resource management objectives are met over the long-term.

3. What is a Bureau of Land Management Regional Mitigation Strategy?

The Bureau of Land Management (BLM) recognizes that some major ground-disturbing activities (such as construction and operation of transmission lines, utility-scale renewable energy, etc.) may result in *unavoidable* impacts that cannot be minimized on the project site. Unavoidable impacts can include impacts on wildlife and their habitat, recreational settings, surface water and groundwater, air quality, and other resources, as well as impacts to values of lands managed by the National Park Service, the U.S. Fish and Wildlife Service, and State Wildlife Agencies. NEPA requires that some unavoidable impacts to the environment receive offsite compensation.

The BLM's interim policy on regional mitigation, BLM Instruction Memorandum 2013-142, is available at
http://www.blm.gov/wo/st/en/info/regulations/Instruction_Memos_and_Bulletins/national_instru

[1] In the past this has also been called "compensatory mitigation."

ction/2013/IM_2013-142.html. The policy provides guidance for considering mitigation on a landscape scale while taking account of existing resource conditions and trends.

4. **What is a Solar Regional Mitigation Strategy?**

A Solar Regional Mitigation Strategy recommends compensatory offsite mitigation actions and locations for potentially unavoidable impacts associated with developing and operating utility-scale solar power facilities on solar energy zones (SEZ). The Department of the Interior Solar Programmatic Environmental Impact Statement (PEIS) Record of Decision directed the BLM to develop *Solar Regional Mitigation Strategies* for SEZs to ensure environmentally responsible energy development. A Solar Regional Mitigation Strategy evaluates and recommends the need, location and measures for offsite mitigation at the landscape scale and supplements the general and site-specific design features required for any solar project. The BLM would require compensatory offsite mitigation where unavoidable impacts are found to hinder the BLM's ability to achieve resource and value objectives for the land it manages.

5. **What is the San Luis Valley/Taos Plateau Landscape Assessment and what is its role in the BLM Colorado-New Mexico Solar Regional Mitigation Strategy?**

A landscape assessment is a geographic study of the current status of resources and the changes that can be projected in the next few decades. The San Luis Valley/Taos Plateau Landscape Assessment will consider land use management questions, important conservation values (elements), and forces driving change and trends in natural and cultural resource conditions. The assessment will rely on the best existing and available data and will be prepared using BLM Rapid Ecoregional Assessment (REA) conceptual and modeling protocols. The information, maps and tools provided by the Landscape Assessment will be used in the development of the Solar Regional Mitigation Strategy for BLM Colorado SEZs.

The BLM has conducted REAs for 11 ecoregions in the western U.S. REA details are available at http://www.blm.gov/wo/st/en/prog/more/Landscape_Approach/reas.html.

6. **Why is the BLM doing a Solar Regional Mitigation Strategy for Colorado SEZs?**

The BLM is conducting this project to identify ways to address potential unavoidable impacts of utility-scale solar energy development within SEZs and to advance landscape-scale, ecosystem-based approaches to resource management and multiple use issues. The BLM believes that the Solar Regional Mitigation Strategy for each SEZ will facilitate solar development on public lands while supporting national, state and local conservation objectives.

7. **What are the goals for the San Luis Valley/Taos Plateau Study?**

The goals of the project are to: 1) understand the landscape-level conditions and trends of the San Luis Valley and Taos Plateau; 2) develop a Regional Mitigation Strategy for three BLM Colorado SEZs; and 3) further conservation strategies for BLM lands in the study area.

8. **How is a regional mitigation strategy different from the way mitigation has been handled in the past?**

In the past, mitigation strategies were developed on a case-by-case basis. Each strategy applied and tailored the 'avoid and minimize' strategy to the specific site and the proposed facility. Where offsite mitigation was required, the BLM generally provided solar developers with offsite mitigation objectives. The developers then created proposals for the BLM to consider. If the BLM found a proposal sufficient, it was approved. If not, the developer went 'back to the drawing board' to try again.

Under the Solar Regional Mitigation Strategy approach, the BLM considers larger landscape or ecoregional conditions and will undertake a collaborative process to:

- Identify the unavoidable adverse impacts that will be mitigated offsite.
- Establish offsite and/or regional mitigation objectives.
- Establish transparent mitigation costs or obligations.
- Identify actions and locations to mitigate unavoidable impacts.
- Establish offsite or regional mitigation fees as an option for developers.
- Monitor the outcomes of mitigation and adapt as necessary to achieve the mitigation objectives.

9. Why is the BLM changing the way mitigation is handled for solar development?

Comments on the Solar PEIS revealed public concerns with the current mitigation process from both the development and conservation perspectives and requested that the BLM adopt a strategic approach to addressing mitigation. Some commenters considered the current process of having solar project developers propose specific offsite mitigation inefficient. Furthermore, commenters recognized that offsite mitigation was not being considered on a landscape scale and was missing potential mitigation opportunities on other lands.

10. What are the goals of a Solar Regional Mitigation Strategy?

The goals of a Solar Regional Mitigation Strategy are to:

- Develop a consistent, regional approach to mitigating impacts.
- Reduce uncertainty about mitigation requirements and streamline the process for mitigating unavoidable adverse impacts.
- Establish science-based or other objective criteria to identify unavoidable impacts that warrant mitigation.
- Establish onsite avoidance and minimization requirements that support build-out plans for the SEZ.
- Obtain agreement from the various regulatory agencies regarding the need for mitigation and the appropriate offsite mitigation strategy.
- Potentially reduce the costs, complexity and timeline associated with offsite mitigation activities and project approvals.
- Establish a simple mitigation fee structure with opportunity to pool funds collected from multiple developers and apply pooled funds to mitigation projects that will produce the most significant results for the dollar.
- Support the BLM's implementation of an adaptive management approach to solar energy development.

- Provide relevant information for determining mitigation requirements for projects on variance lands.
- Achieve a greater degree of stakeholder collaboration throughout the mitigation strategy process.

11. Will the regional mitigation strategy eliminate the need to develop a mitigation plan specific to each proposed project in a SEZ?

No. Since each proposed development will have a unique project design and associated impacts, each SEZ will require a site-specific mitigation plan. However, it is expected that these site-specific plans will be consistent with and make use of the regional mitigation strategy for the SEZ. This will result in a reduced level of effort as compared to the BLM's current process for individual projects.

12. How will the BLM decide how and where to implement mitigation actions and allocate mitigation fees?

One of the most important parts of a Solar Regional Mitigation Strategy is determining how and where the unavoidable impacts of solar development can be most efficiently and effectively mitigated offsite. In developing such a strategy, the BLM will take into consideration:

- The condition and trend of relevant ecological, social, and/or economic values and systems, and where these systems are most at risk.
- The relative risks posed by the development of the SEZ on these systems.
- The BLM's resource management goals, as articulated in the applicable Resource Management Plan(s) (RMP).
- The degree to which lands and resources, if protected and/or restored, would most efficiently and effectively mitigate the unavoidable adverse impacts of solar development in the SEZ.

In order to implement this strategy, the BLM, in collaboration with stakeholders, will develop and implement a process for soliciting, screening, selecting and monitoring mitigation projects designed to implement the Solar Regional Mitigation Strategy. This process is similar to the way mitigation funds are allocated under a habitat management plan.

13. Will the payment of a mitigation fee relieve applicants of the need to carry out onsite mitigation activities?

No. BLM Policy clearly states that fees may not be used for onsite mitigation and that every effort should be made to mitigation impacts onsite before any offsite mitigation is considered.

14. Will the Solar Regional Mitigation Strategy encourage development within the SEZs as described in the Solar PEIS?

Solar Regional Mitigation Strategies will be designed as an incentive for development within SEZs. Meeting the goals for a Solar Regional Mitigation Strategy outlined in the response to Question 8 above will serve to encourage development within the SEZs.

15. How does the Solar Regional Mitigation Strategy apply to applications received for lands identified as 'variance areas' in the Solar PEIS?

Variance areas are locations outside of SEZs where the BLM will consider solar facility applications on a case-by-case basis. Regional Mitigation Strategies are designed as an incentive for development within SEZs, not for variance areas, and will be specific to the development expected within SEZs. Projects developed in proximity to SEZs would be considered as part of the cumulative impacts assessment for SEZs. While projects in variance areas will not be offered the same incentives as projects in SEZs by way of a Regional Mitigation Strategy, projects in the vicinity of SEZs may be able to use an existing Regional Mitigation Strategy to identify offsite mitigation objectives and opportunities.

16. How do Solar Regional Mitigation Strategies relate to BLM Resource Management Planning?

For an unavoidable impact to warrant offsite mitigation, BLM policy requires that the impact must impede the BLM's ability to achieve resource management goals and objectives as articulated in an RMP. In identifying which unavoidable impacts associated with SEZs warrant mitigation, the BLM will review existing RMPs among other resources. The BLM will also use existing RMPs to establish mitigation objectives and potential mitigation opportunities.

17. How do Solar Regional Mitigation Strategies relate to land use plans developed and managed by other agencies in the region?

In identifying which unavoidable impacts associated with SEZs warrant mitigation, the BLM will review land use and other plans developed and managed by other agencies in the region (e.g. county-level documents). The BLM will also use these existing plans to aid in establishing mitigation objectives and identifying potential mitigation opportunities.

18. How will the requirements of NEPA be addressed in the Solar Regional Mitigation Strategy process?

The development of a Solar Regional Mitigation Strategy in and of itself does not trigger NEPA, but can inform it. These strategies will guide how future project authorizations will occur, but do not authorize or force any action. The BLM will complete a site-specific environmental review of all solar energy right-of-way (ROW) applications in accordance with NEPA prior to issuing a ROW authorization. All project-specific mitigation will be analyzed under NEPA as part of the required site-specific NEPA for projects.

19. What is the schedule for the Solar Regional Mitigation Strategy Project for BLM Colorado SEZs?

The project was initiated in October 2013 and is scheduled for completion in March 2015.

20. Under what authority is the BLM authorized to carry out regional mitigation strategies?

The Federal Land Policy and Management Act (FLPMA) authorizes the BLM to address mitigation of impacts on public lands. FLPMA states that "the public lands be managed in a manner that will protect the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resource and archeological values…." FLPMA §102(a)(8). In addition, the use, occupancy and

development of public lands must be regulated by the Secretary of the Interior, subject to other applicable law, through easements, permits, leases, licenses or other instruments. For further information see FLPMA §302(b), 43 U.S.C. § 1732(b).

21. Under what authority is the BLM authorized to collect fees to fund offsite mitigation?

FLPMA section 307(c), 43 U.S.C. § 1737(c), or the Wyden Amendment, 16 U.S.C. § 1011 authorize the BLM to collect fees to fund offsite mitigation. The BLM may accept an offer of monies from individual applicants for the purpose of pooling funds towards completion of larger offsite mitigation efforts.

22. How will stakeholders be involved in the project?

The BLM invites the public to engage and participate in the project. The public may keep abreast of project topics, workshop planning, agendas and activities via the BLM Colorado SEZ Solar Regional Mitigation Strategy webpage at: http://www.blm.gov/co/st/en/fo/slvfo/Solar.html.The BLM will post workshop documents, data and other information on this page.

The BLM will primarily communicate with the interested public via news releases and emails (to the BLM Solar Energy Program webpage subscriber list and individuals on workshop participant lists) to notify and inform the public of project activities. If you are interested in signing up to receive email notifications, send an email to SolarMitigation@BLM.gov.

23. Why is the BLM developing the Solar Regional Mitigation Strategy now?

In 2012, the Department of the Interior directed the BLM to develop regional solar mitigation strategies for all SEZs to consider "conservation-focused compensation" to offset potentially unavoidable impacts of this land use. The Landscape Assessment and Solar Regional Mitigation Strategy will provide improved understanding of the conditions of resources and expected trends for those resources under climate change and human development in the San Luis Valley, and will be used to inform land use planning efforts covering BLM-managed lands within the San Luis Valley.